



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 14 2009

Carolyn Cardwell, Treasurer
Kalamazoo County Democratic Party Federal Committee
3254 South Westnedge Avenue
Post Office Box 2466
Kalamazoo, Michigan 49003

RE: MUR 6171
Kalamazoo County Democratic
Party Federal Committee and
Carolyn Cardwell, in her official
capacity as treasurer

Dear Ms Cardwell:

On March 24, 2009, the Federal Election Commission notified the Kalamazoo County Democratic Party Federal Committee (the "Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 1, 2009, the Commission found, on the basis of the information in the complaint, and information provided by the Committee, that there is no reason to believe the Committee violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Cameron Thurber".

J. Cameron Thurber,
Attorney

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Kalamazoo County Democratic Party MUR: 6171
Federal Committee and Carolyn Cardwell,
in her official capacity as treasurer

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by the Michigan Republican Party. See 2 U.S.C. § 437g(a)(1). For the reasons set forth below, the Commission has found that there is no reason to believe that the Kalamazoo County Democratic Party Federal Committee and Carolyn Cardwell, in her official capacity as treasurer, ("KCDP") violated the Federal Election Campaign Act of 1971, as amended (the "Act").

II. FACTUAL SUMMARY

The complaint states that in its 2008 Post-General Report, the KCDP reported a total of \$11,214.35 in anonymous cash contributions received on seven separate occasions between October 14 and November 14, 2009, and alleges that the KCDP either knew or should have known the identity of the contributors. The complaint cites to Advisory Opinion 1991-20 (Call Interactive) for the proposition that contributions are "not 'anonymous' contributions for the purposes of 11 C.F.R. 110.4(c)(3)" if the contributors' identities are able to be determined, and alleges that the contributions may have come from sources not in compliance with the prohibitions and limitations of the Act. MUR 6171 Complaint at 1. The complaint further alleges that because the KCDP contributed a total of \$5,000 to the Cooney for Congress Committee and Robert Snyder in his official capacity as treasurer ("Cooney Committee"),

1 between October 18 and October 31, 2008,¹ the funds used to contribute to, and accepted by, the
2 Cooney Committee may not have been federally compliant in violation of the Act and 11 C.F.R.
3 § 110.9.

4 The KCDP responded that it received many anonymous cash contributions through
5 "suggested donations" for Barack Obama merchandise that it bought and brought to its
6 headquarters, including t-shirts (\$10), yard signs (\$5), buttons (\$3) and bumper stickers (\$1), and
7 that it was not required to collect identifying information on contributors of less than \$50,
8 including those who made "suggested donations" for merchandise. KCDP Response at 1. The
9 KCDP also states that it made a \$5,000 contribution, the maximum amount allowed, to the
10 Cooney Committee, and reported that information. *Id.*

11 **III. LEGAL ANALYSIS**

12 There do not appear to be violations of the Act concerning the amounts, sources or
13 reporting of the contributions. Political committees are required to keep an account of the name
14 and address of person who makes any contribution in excess of \$50, together with the date and
15 amount of any such contribution. 2 U.S.C. § 432(c)(2). The KCDP states in its response that it
16 did not accept \$50 or more from any contributor, and we have no information to the contrary.
17 Further, the KCDP's aggregating of a number of anonymous contributions under \$50 for
18 reporting purposes appears to be in compliance with 11 C.F.R. 102.9(a). *See* MUR 5560 (Case
19 for Congress) FGCR at 8 (citing AOs 1981-48 (Muskegon Republicans) and 1980-99
20 (Republican Roundup)).

¹ Commission filings show the KCDP made, and the Cooney Committee accepted, three separate contributions in October 2008 totaling \$5,000: \$1,000 on October 18, \$1,700 on October 22, and \$2,300 on October 31.

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1 While the complaint cited AO 1991-20 (Call Interactive) for the proposition that a
2 contribution is not anonymous if the contributor can be identified, AO 1991-20 is distinguishable
3 because it involved a 900 telephone call service to be used for soliciting and collecting
4 contributions *via* electronic means. As the Commission stated in that opinion, "900 line
5 fundraising programs do not involve truly anonymous contributions such as the small cash
6 contributions posited in [Advisory Opinion 1980-99]." The situation in this matter involves
7 actual cash contributions (*i.e.*, currency), which are specifically provided for under the
8 regulations, and which are specifically permitted to be made anonymously provided that each
9 such contribution does not exceed \$50. 11 C.F.R. 110.4(c)(3).

10 There is no information that the KCDP accepted contributions over \$50 that were not
11 properly reported or that any of the contributions came from prohibited sources. Without context
12 or any other specific facts, this allegation is merely speculative and does not provide a sufficient
13 threshold to support reason to believe findings. See Statement of Reasons of Commissioners
14 Mason, Smith, Sandstrom and Thomas in MUR 44960 (Hillary Rodham Clinton, issued Dec. 21,
15 2000). There is also no information, other than mere speculation by the complainant, that
16 contributions that the Cooney Committee received from the KCDP came from a prohibited
17 source. See *id.* Moreover, the KCDP, as a multicandidate committee, could legally contribute
18 \$5,000 to the Cooney Committee. See 2 U.S.C. § 441a(a)(2)(A); 11 C.F.R. §§ 110.2(a)(2)(b),
19 110.3(b)(3).

20 Therefore, the Commission has found that there is no reason to believe that the KCDP
21 violated the Act, and close the file.